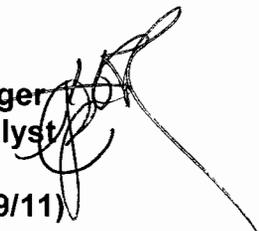


**MOORPARK CITY COUNCIL  
AGENDA REPORT**

**TO:** Honorable City Council

**FROM:** Hugh R. Riley, Assistant City Manager  
**BY:** Jessica Sandifer, Management Analyst 

**DATE:** January 5, 2011 (CC Meeting of 1/19/11)

**SUBJECT:** Consider Agreement with Testing Engineers Southwest, Inc. dba Vertical-V Testing Engineers, Inc. for Materials Testing, Special Inspection and Geotechnical Services for the Ruben Castro Human Services Center Capital Improvement Project (5020)

**BACKGROUND**

The Ruben Castro Human Services Center (RCHSC) project consists of two buildings totaling approximately 25,000 square feet (the Facility). Building A is 10,000 square feet and is designed to house non-emergency medical services. Building B is approximately 15,000 square feet and has been planned as an "Under-One-Roof" facility for various social services, educational uses, and charitable services. The construction plans and specifications are complete and the project was sent out to bid. Bids were due on October 21, 2010.

Since the project has been bid, it is now appropriate to secure the services of a firm to provide materials testing, special inspection and geotechnical services for the project.

**DISCUSSION**

In January 2009, the City submitted an informal request for proposals for Materials Testing, Special Inspection and Geotechnical Services. Two responses to the proposals were received from: Vertical-V, and Smith Emery Labs. After staff review of the proposals, Vertical-V was selected based on their understanding of the scope of work and the fact that they are based in Ventura, which allows for quick access to the project site when services are needed. This proximity will avoid delays in the project which can occur while waiting for the inspectors to arrive. Shortly after the request for proposals was issued, the Human Services Center project was put on hold. After City Council

approved the project to go to bid, staff contacted Vertical-V and they were willing to honor the quote they previously provided.

### **FISCAL IMPACT**

The baseline estimate for Vertical-V's work is on a time and materials basis of \$156,152. This amount is based on materials testing, special inspection, and geotechnical services as required by the construction documents. However, sometimes unforeseen conditions exist that require additional services that are not called out in the construction documents. In light of this, staff is also proposing adding a 10% contingency amount of \$15,615 to the baseline estimate, to cover these unforeseen conditions.

The Redevelopment Agency Board has been requested to appropriate funds for these services in an earlier action on the Agency Board Agenda.

### **STAFF RECOMMENDATION**

Approve agreement with Testing Engineers Southwest, Inc. dba Vertical-V Testing Engineers Inc. for materials testing, special inspection and geotechnical services and authorize City Manager to sign the agreement subject to final language approval of the City Attorney and City Manager and authorize City Manager to approve additional services not to exceed 10% contingency amount outlined in the report.

Attachment – Agreement

## ATTACHMENT

### AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF MOORPARK AND TESTING ENGINEERS SOUTHWEST, INC. dba VERTICAL-V TESTING ENGINEERS, INC. FOR MATERIALS TESTING, SPECIAL INSPECTION AND GEOTECHNICAL SERVICES FOR THE RUBEN CASTRO HUMAN SERVICES CENTER

This Agreement is made and entered into in the City of Moorpark on this \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between the City of Moorpark, a public body, corporate and politic ("City"), and Testing Engineers Southwest, Inc. dba Vertical-V Testing Engineers, Inc., a California corporation ("Consultant") providing materials testing, special inspection, and geotechnical services. In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

#### 1. Term

This Agreement shall commence on the date it is first signed and shall remain and continue in effect until the tasks described herein, and on any amendments hereto, are completed, unless sooner terminated pursuant to the provisions of this Agreement.

#### 2. Services

City hereby retains Consultant in a contractual capacity to perform professional services as set forth in Exhibit A, Proposal, attached hereto and incorporated herein. If the Proposal is modified by this Agreement, or in the event there is a conflict between the provisions of the Proposal and this Agreement, the language contained in this Agreement shall take precedence.

#### 3. Performance

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder to meet its obligations under this Agreement.

#### 4. Responsible Individuals

The individual directly responsible for Consultant's overall performance of the Agreement provisions herein above set forth and to serve as principal liaison between Consultant and City shall be Scott Moors and no other individual may be submitted without the prior consent of City Manager.

The City Manager, or his designee, shall represent City in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant. The City Manager is authorized to act on City's behalf to execute all necessary documents which increase the Scope of Services or change Consultant's compensation, subject to Section 5 hereof.

## **5. Payment**

a) For providing services as specified in this Agreement, City shall pay and Consultant shall receive as full compensation a total sum based on fees as shown in Proposal. This amount shall not exceed one hundred and fifty-six thousand, one hundred and fifty-one dollars and fifty cents (\$156,151.50) plus ten percent (10%) contingency of fifteen thousand six hundred and fifteen dollars (\$15,615.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement. Consultant will provide appropriate back-up documentation, as determined by the City, for all reimbursable expenses.

b) Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement, which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by City Manager and Contractor at the time City's written authorization is given to Contractor for the performance of said services. The City Manager is authorized by the City Council to approve additional work not to exceed the ten percent (10%) contingency amount stated above.

c) Consultant shall submit invoices at the completion of each of the tasks. Invoices shall be submitted on or about the first business day of the month, or as soon thereafter as practical, for services provided. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Consultant's fees it shall give written notice to Consultant within fifteen (15) days of receipt of an invoice of any disputed fees set forth on the invoice.

## **6. Incorporation by Reference**

All exhibits herein referenced are hereby incorporated into and made a part of the Agreement.

## **7. Suspension or Termination of Agreement without Cause**

The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall

immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Consultant may terminate this Agreement only by providing City with written notice no less than thirty (30) days in advance of such termination. In the event of such termination or suspension, Consultant shall be compensated for such services up to the date of termination or suspension. Such compensation for work in progress shall be prorated as to the percentage of progress completed at the date of termination or suspension.

In the event this Agreement is terminated pursuant to this Section, the City shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the City pursuant to Section 5.

#### **8. Default of Consultant**

a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

b) If the City Manager or his/her designee determines that the Consultant is in default in the performance of any terms or conditions of this Agreement, the City Manager shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

#### **9. Indemnification and Hold Harmless**

Professional Liability: Consultant shall indemnify, defend (with counsel reasonably acceptable to City) and hold harmless City, and any and all of its employees, officials and agents ("the Indemnitees") from and against any liability (including liability

for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arises out of, are a consequence of, or are in any way attributable to, in whole or in part, the negligence, willful misconduct, errors or omissions, in performance of this Agreement by Consultant or by any individual, or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subcontractors of Consultant, except such damage as is caused by negligence of the City or any of its officers, employees, servants, project coordinators or agents.

Other than Professional Liability: Consultant shall indemnify, defend and hold harmless City, and any and all of its employees, officials and agents from and against any liability (including liability for claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, including attorneys' fees and costs, court costs, interest, defense costs, and expert witness fees), where the same arise out of, are a consequence of, or are in way attributable to, in whole or in part, the performance of this Agreement by Consultant or by any individual or entity for which Consultant is legally liable, including but not limited to officers, agents, employees or subconsultants of Consultant.

Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from each and every subconsultant, or any other person or entity involved by, for, with, or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this Section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this Section.

City does not and shall not waive any rights that it may have against Consultant by reason of this section, because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions shall apply regardless of whether or not said insurance policies are determined to be applicable to any losses, liabilities, damages, costs and expenses described in this section.

## **10. Insurance**

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and part of this Agreement.

## **11. Independent Consultant**

a) Consultant is and shall at all times remain as to the City a wholly independent Consultant. The personnel performing the services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the City. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against City, or bind City in any manner.

b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for City. City shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

## **12. Notices**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by 1) personal service, 2) delivery by a reputable document delivery service, which provides a receipt showing date and time of delivery, or 3) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

City: City of Moorpark  
799 Moorpark Avenue  
Moorpark, CA 93021  
Attn: City Manager

Consultant: Vertical-V Testing Engineers, Inc.  
1868 Palma Drive, Suite A  
Ventura, CA 93010  
Attn: Scott Moors, President

### **13. Assignment**

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. It is understood and acknowledged by the parties that Consultant is uniquely qualified to perform the services provided for in this Agreement.

### **14. Entire Agreement**

This written Agreement, including all writings specifically incorporated herein by reference, shall constitute the complete Agreement between the parties hereto. No oral agreement, understanding, or representation not reduced to writing and specifically incorporated herein shall be of any force or effect, nor shall any such oral agreement, understanding, or representation be binding on the parties hereto. Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally, and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared. No waiver of any provision of this Agreement shall be deemed or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provisions. No waiver shall be binding, unless executed in writing by the party making the waiver.

### **15. Anti-Discrimination**

In the performance of the terms of this Agreement, Consultant agrees that it will not engage in, nor permit such subcontractors as it may employ, to engage in discrimination in employment of persons because of the age, race, color, creed, sex, sexual orientation, national origin, ancestry, religion, physical disability, medical disability, medical condition, or marital status of such persons. Violation of this provision may result in the imposition of penalties referred to in the Labor Code of the State of California Section 1735.

### **16. General Conditions**

a) Consultant agrees not to work for any private firm located within the City limits or its Area of Interest, or for any public agency where its jurisdiction includes all or part of the City without the prior written consent of the City, during the term of this Agreement. Furthermore, Consultant agrees to limit its actions related to economic interest and potential or real conflicts of interest as such as defined by applicable state law to the same standards and requirements for designated City employees.

b) City shall not be called upon to assume any liability for the direct payment of any salary, wage or other compensation to any person employed by Consultant performing services hereunder for City.

c) At the time of 1) termination of this Agreement or 2) conclusion of all work, all original reports, documents, calculations, computer files, notes, and other related materials whether prepared by Consultant or its subcontractor(s) or obtained in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of City. Any word processing computer files provided to City shall use Microsoft Word for Windows software.

d) Nothing contained in this Agreement shall be deemed, construed or represented by City or Consultant or by any third person to create the relationship of principal or agent, or of a partnership, or of a joint venture, or of any other association of any kind or nature between City and Consultant.

e) In the event any action, suit or proceeding is brought for the enforcement of, or the declaration of any right or obligation pursuant to this Agreement or as a result of any alleged breach of any provision of this Agreement, the prevailing party shall be entitled to recover its costs and expenses, from the losing party, and any judgment or decree rendered in such a proceeding shall include an award thereof.

f) Cases involving a dispute between City and Consultant may be decided by an arbitrator if both sides agree in writing on the arbitration and on the arbitrator selected, with costs proportional to the judgment of the arbitrator.

g) The captions and headings of the various Sections and Exhibits of this Agreement are for convenience and identification only and shall not be deemed to limit or define the content of the respective Sections and Exhibits hereof.

h) If any portion of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will never-the-less continue in full force without being impaired or invalidated in any way.

i) No officer, employee, director or agent of the City shall participate in any decision relating to this Agreement which affects the individual personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested, or shall any such person have any interest, direct or indirect, in this Agreement or the provisions thereof.

**17. Governing Law**

The City and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

This Agreement is made, entered into, and executed in Ventura County, California, and any action filed in any court or for arbitration for the interpretation, enforcement or other action of the terms, conditions or covenants referred to herein shall be filed in the applicable court in Ventura County, California.

**18. Authority to Execute this Agreement**

The person or persons executing this Agreement on behalf of Consultant warrants and represents that this individual has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF MOORPARK:**

**VERTICAL-V TESTING ENGINEERS, INC.**

\_\_\_\_\_  
Steven Kueny  
City Manager

\_\_\_\_\_  
Scott Moors  
President

**ATTEST:**

\_\_\_\_\_  
Maureen Benson, City Clerk

Exhibit "A": Proposal for Professional Services  
Exhibit "B": Insurance Requirements

EXHIBIT A



August 16, 2010

Proposal No: 4502.10.189

**City of Moorpark**  
**Assistant City Manager's Office**  
 799 Moorpark Avenue  
 Moorpark, California 93021

ATTENTION: Jessica Sandifer, Management Analyst

SUBJECT: **Materials Testing, Special Inspection and Geotechnical Services for the Ruben Castro Human Services Center, Project No. 5020**

BTC LABS - Vertical V is pleased to submit this proposal for the referenced project. Our estimated scope of services and estimated costs are detailed below.

Estimate includes inspections that may be performed by Project Inspector.

**Scope of Work and Cost Estimate**

	Rate	Units	Total
<b>Building A:</b>			
<b>Concrete:</b>			
Reinforcing Steel Inspection (foundation)	\$ 76 hr	12	\$ 912.00
Concrete Placement Inspection (foundation)	\$ 76 hr	8	\$ 608.00
Reinforcing Steel Inspection (slab on grade)	\$ 76 hr	12	\$ 912.00
Concrete Placement Inspection (slab on grade)	\$ 76 hr	8	\$ 608.00
Concrete Technician (slump, temp, cylinders) foundation & SOG	\$ 76 hr	12	\$ 912.00
Concrete Batch Plant Inspection (foundation and slab on grade)	\$ 76 hr	16	\$ 1,216.00
Concrete compression tests (\$25. ea / sets of 4 ea.)	\$ 25 ea	32	\$ 800.00
Concrete cylinders pickup (\$9.50 ea. / sets of 4 ea.)	\$ 9.5 ea	32	\$ 304.00
<b>Reinforcing Steel:</b>			
Reinforcing Steel Bend tests rebar	\$ 40 ea	4	\$ 160.00
Reinforcing Steel Tensile tests rebar	\$ 45 ea	4	\$ 180.00
Reinforcing Steel sampling (2 hr. min.)	\$ 70 hr	4	\$ 280.00
<b>Structural Steel:</b>			
Shop Welding Inspection (including material ID)	\$ 69 hr	120	\$ 8,280.00
Field Welding Inspection ( <i>erection, HS Bolts, nelson studs and canopies</i> )	\$ 76 hr	184	\$ 13,984.00
Field Welding Inspection (rebar # 8)	\$ 76 hr	8	\$ 608.00
High Strength Bolt Testing & Washers - ( <i>proof, hardness, ultimate load test - 3 of ea. per set</i> )	\$ 350 set	4	\$ 1,400.00
Metal Deck Welding Inspection	\$ 76 hr	16	\$ 1,216.00
Metal Framing Welding Inspection	\$ 76 hr	120	\$ 9,120.00
Ultrasonic Testing (field)	\$ 80 hr	8	\$ 640.00
Fireproofing Inspection ( <i>if required</i> )	\$ 76 hr	0	\$ -

**BTC LABS - Vertical V**  
 1868 Palma Drive, Suite A, Ventura, CA 93010  
 Phone: (805) 656-6074 Fax (805) 656-1263

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**Miscellaneous:**

Epoxy Inspection	\$	76 hr	8	\$	608.00
Non-Shrink Grout Inspection ( <i>if required</i> )	\$	76 hr	40	\$	3,040.00
Non-Shrink (Dry-Pack) Grout compression tests (sets of 3 ea.)	\$	96 set	5	\$	480.00
Non-Shrink Grout sample pickup (sets of 3 ea.)	\$	28.5 set	5	\$	142.50
Bolt Testing (expansion anchors and torque testing)	\$	76 hr	12	\$	912.00

**Building B:****Concrete:**

Reinforcing Steel Inspection (foundation)	\$	76 hr	20	\$	1,520.00
Concrete Placement Inspection (foundation)	\$	76 hr	16	\$	1,216.00
Reinforcing Steel Inspection (slab on grade)	\$	76 hr	20	\$	1,520.00
Concrete Placement Inspection (slab on grade)	\$	76 hr	16	\$	1,216.00
Concrete Technician (slump, temp, cylinders) foundation & SOG	\$	76 hr	32	\$	2,432.00
Concrete Batch Plant Inspection (foundation and slab on grade)	\$	76 hr	32	\$	2,432.00
Concrete compression tests (\$25. ea / sets of 4 ea.)	\$	25 ea	72	\$	1,800.00
Concrete cylinders pickup (\$9.50 ea. / sets of 4 ea.)	\$	9.5 ea	72	\$	684.00

**Reinforcing Steel:**

Reinforcing Steel Bend tests rebar	\$	40 ea	4	\$	160.00
Reinforcing Steel Tensile tests rebar	\$	45 ea	4	\$	180.00
Reinforcing Steel sampling (2 hr. min.)	\$	70 hr	4	\$	280.00

**Structural Steel:**

Shop Welding Inspection (including material ID)	\$	69 hr	200	\$	13,800.00
Field Welding Inspection ( <i>erection, HS Bolts, nelson studs and canopies</i> )	\$	76 hr	240	\$	18,240.00
Field Welding Inspection (rebar # 8)	\$	76 hr	12	\$	912.00
High Strength Bolt Testing & Washers - ( <i>proof, hardness, ultimate load test - 3 of ea. per set</i> )	\$	350 set	4	\$	1,400.00
Metal Deck Welding Inspection	\$	76 hr	32	\$	2,432.00
Metal Framing Welding Inspection	\$	76 hr	240	\$	18,240.00
Ultrasonic Testing (field)	\$	80 hr	12	\$	960.00
Fireproofing Inspection ( <i>if required</i> )	\$	76 hr	0	\$	-

**Miscellaneous:**

Epoxy Inspection	\$	76 hr	12	\$	912.00
Non-Shrink Grout Inspection ( <i>if required</i> )	\$	76 hr	80	\$	6,080.00
Non-Shrink (Dry-Pack) Grout compression tests (sets of 3 ea.)	\$	96 set	10	\$	960.00
Non-Shrink Grout sample pickup (sets of 3 ea.)	\$	28.5 set	10	\$	285.00
Bolt Testing (expansion anchors and torque testing)	\$	76 hr	20	\$	1,520.00

**Site Work:**

Site Grading Observation & Testing	\$	78 hr	64	\$	4,992.00
Utility Backfill Observation & Testing	\$	78 hr	40	\$	3,120.00
Pavement Observation & Testing	\$	78 hr	16	\$	1,248.00
Max Density (Lab)	\$	155 ea	4	\$	620.00
Expansion Index	\$	158 ea	2	\$	316.00
R-Value	\$	270 ea	1	\$	270.00
Corrosivity	\$	288 ea	2	\$	576.00

**BTC LABS - Vertical V**

1868 Palma Drive, Suite A, Ventura, CA 93010  
 Phone: (805) 656-6074 Fax (805) 656-1263

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Mix Design Review (concrete and grout)	\$	230 ea	4	\$	920.00
Aggregate Tests (sieve analysis & specific gravity) <i>if required</i>	\$	145 ea	4	\$	580.00
Masonry Placement Inspection	\$	76 hr	160	\$	12,160.00
Batch Plant Inspection (Grout) <i>if required</i>	\$	76 hr	12	\$	912.00
Mortar compression tests (\$25. ea. / sets of 4 ea.)	\$	25 ea	24	\$	600.00
Grout compression (\$30. ea. / sets of 4 ea.)	\$	30 ea	8	\$	240.00
Mortar & Grout sample pickup (\$9.50 ea. / sets of 4 ea.)	\$	9.5 ea	32	\$	304.00
Block Sampling	\$	70 hr	4	\$	280.00
Masonry Unit acceptance test includes absorption, compression, moisture content & unit weight tests)	\$	465 set	1	\$	465.00
Masonry Prisms (1 set of 5 @ \$140. ea. ) <i>if required</i>	\$	140 ea	5	\$	700.00
Masonry Prism pickup	\$	29 ea	5	\$	145.00
Project Management / reporting / coordination time	\$	120 hr	10	\$	1,200.00
				<b>TOTAL:</b>	<b>\$ 156,151.50</b>

**Notes:**

- 1 Travel time and mileage will be waived to project job site for inspectors.
- 2 Travel by Field Technicians and inspectors to offsite locations will be charged portal-to-portal and mileage.
- 3 Special Inspectors 4 hrs. daily minimum, actual hours thereafter.
- 4 Technicians 2 hr. daily minimum, actual hours thereafter at hourly rate.

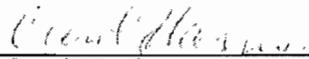
**Assumptions:**

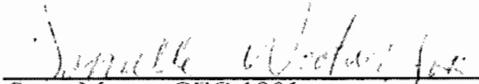
- 1 Proposal is based on plans and RFP provided by the City of Moorpark.
- 2 Shop and offsite inspections will be billed portal to portal and subsistence, as applicable.
- 3 The estimate is provided for budgetary purposes only and is not a lump sum / not to exceed cost. Billing will be for actual service provided.
- 4 Services will be performed in accordance with the accompanying "Terms and Conditions" made a part of this agreement.
- 5 Added charges will be charged in accordance with the attached 2010 Schedule of Fees and prevailing wage rates.

BTC Labs appreciates the opportunity to be of service. If you have any questions, please do not hesitate to contact us.

*Respectfully Submitted,*  
**BTC LABS - Vertical V**

*Reviewed By,*

  
 \_\_\_\_\_  
 Carol Harrison  
 Marketing Manager

  
 \_\_\_\_\_  
 Scott Moors, CEG 1901  
 President

Attachments:            Terms and Conditions  
                                  2010 Schedule of Fees



# BTC LABS – Vertical V

Geotechnical, Construction Inspection, & Materials Testing Consultants

## 2010 FEE SCHEDULE

### GENERAL CONDITIONS

**Testing Samples** - A hourly preparation charge will be added to all samples submitted to the laboratory that are not ready for testing. There will be a 50% premium charge for "RUSH/PRIORITY" testing.

**Scheduling** - A minimum of 24-hours notice is required to schedule personnel (48-hour notice is required for DSA projects). For same-day scheduling, a 50% premium applies. If less than 24 hours notice is provided on a cancellation, a charge of 2 hours will be assessed.

**Minimum Charges – Special Inspections:** A minimum charge of 4 hours applies to inspection call-out between 0 and 4 hours. Eight (8) hours will be charged for work performed over 4 hours up to eight hours. A 4-hour minimum charge shall apply to all cancellations after inspector has been dispatched. Travel time is not normally charged for inspections within 25 miles of the laboratory.

**Technicians:** A minimum charge of 2 hours applies to technician call-out between 0 and 2 hours. Technician time is portal-to-portal from lab-to-site-to-lab. A 2-hour minimum charge shall apply to all cancellations after technician has been dispatched.

**Overtime Rates** - Rates are based on an 8-hour workday between the hours of 7:00 a.m. and 3:30 p.m., Monday through Friday. Work outside of these hours or in excess of 8 hours in one day or over 40 hours in one week will be charged a premium of 1.5 times the quoted rates. Work over 12 hours in one day or over 8 hours on the 7th consecutive day, or work on holidays will be charged at 2.0 times quoted rates.

**Holidays** - The following holidays are observed: New Years Day, Memorial Day, Independence Day, Labor Day, Veteran's Day,

Thanksgiving Day and the following Friday, and Christmas Day. Should a holiday fall on Saturday or Sunday, the closest previous or following regular workday will be observed for the holiday.

**Transportation** - Transportation will be charged at \$0.60 per mile for all projects with a \$30 minimum charge per trip. A fuel surcharge may be applied to invoices to offset an increase in fuel prices.

**Per Diem** - Per diem will be charged at 1.1 times the Federal (GSA) rate for all out-of-town assignments unless other arrangements are made.

**Engineering Review of Field & Lab Reports** - All of our assignments are under the direct supervision of a Registered Professional Engineer. Engineering time of one-half (1/2) hour per inspection day will be included for scheduling, report review, and data evaluation. Secretarial time for typing, copying, and distributing will be billed at a minimum of 0.5 hours per week and includes up to 3 copies of the report (5 copies for DSA projects). Additional copies will be billed at \$2.00 per report.

**Outside Services / Subcontractors** - Cost plus 15% will be charged for any work not directly performed or for any materials procured.

**Prevailing Wage** - Client agrees to notify the Laboratory, in writing, of any requirement for payment of California Prevailing Wages or any other predetermined contract wage condition. Client agrees to indemnify BTC Labs - Vertical Five against all costs related Client's failure to notify Lab of predetermined wage requirements.

**Certified Payroll** - An \$80.00 per week, per project processing fee for Certified Payroll will be assessed on Prevailing Wage Projects.

**Escalation** - Rates are subject to 6% annual escalation.

### I. PROFESSIONAL, TECHNICAL, & SUPPORT STAFF

(Hourly rates unless otherwise indicated. Charges are portal-to portal from to BTC Labs)

<b>A. Professional Staff</b>		<b>Standard</b>
Principal Engineer/Geologist/Consultant		\$170.00
Senior Engineer/Geologist/Consultant (PE, CEG)		\$145.00
Project Engineer/Geologist/Consultant/Manager		\$125.00
Staff Engineer/Geologist/Consultant		\$95.00
<b>B. Field Sampling, Inspection &amp; Testing</b>	<b>Prevailing Wage</b>	<b>Standard</b>
Special (Deputy) Inspector	\$85.00	\$76.00
<i>(Concrete, P/T Concrete, Masonry, Structural Steel, Fireproofing, Pile Driving)</i>		
Mechanical/Electrical Inspector	\$95.00	\$90.00
Roofing/Waterproofing Inspector	\$90.00	\$85.00
Concrete/Asphalt Batch Plant Inspection	\$85.00	\$76.00
ACL Concrete Technician	\$83.00	\$70.00
Senior Technician* (Soil/Asphalt/Special Testing)	\$88.00	\$76.00
Nondestructive Exam/Testing (UT/Mag Part/Dye Pen)	\$94.00	\$84.00
Trip Charge (within 25 radius of Lab, if >25 mi hourly + mileage)		\$30.00
* Services such as density by nuclear gauge, "Schmidt Hammer" readings, pachometer survey, torque tests and pull tests are performed by Senior Technicians		
<b>C. DSA / OSPHD Inspection &amp; Testing</b>	<b>Prevailing Wage / Standard</b>	
Project Inspector / IOR, DSA Class I		\$110.00
Project Inspector / IOR, DSA Class II/III		\$95.00
DSA Masonry / Shotcrete Inspection		\$90.00
DSA Form 5 (Inspector Qualifications)		\$45 ea.
Special Inspection Verified Report (SIVR/VR)		\$185 (min.) ea
Laboratory / Geotechnical Verified Report		\$385 (min.) ea
<b>D. Sample Pickup &amp; Delivery</b>	<b>Prevailing Wage</b>	<b>Standard</b>
Sample Pickup (>25mi radius of Lab) - plus applicable unit price		\$55.00
Field Equipment & Supply Delivery (1 hr min)		\$55.00
Saturday Pickup (hourly, 4 hr minimum, plus mileage)		\$75.00
See Unit Prices for pickup charges of cylinders, prisms, panels, etc.		

### E. Support Staff & Special Services

Laboratory Technician	<b>Prevailing Wage</b>	<b>Standard</b>
	\$88.00	\$78.00
File Search, Reissue of Report		\$45.00 (min.)
Certified Payroll Admin. (0.5 hr min./wk)		\$80.00
Court Appearance and Depositions (4 hr min)		\$280.00
Drafting/CADD		\$70.00
Clerical		\$60.00

### II. MATERIALS AND EQUIPMENT

<b>A. Equipment</b>		<b>Rate</b>
1. Air Meter (Concrete)		\$45/day
2. Calibrated Ram (Pull test)		\$75/day
3. Ceiling Wire Dead-Weight Equip.		\$110/day
4. Concrete Slab Moisture Emission Kit		\$55/ea
5. Floor Flatness (plus labor - 4hr min)		Per Quote
6. Generator		\$65/day
7. Magnetic Particle Equipment & Consumables		\$50/day
8. Mileage - Field Vehicle (\$30/day minimum charge)		\$0.60/mi
9. Mileage - Coring Truck		\$0.65/mi
10. Nuclear Gauge		\$25/day
11. Pachometer (Rebar) Survey Equipment		\$75/day
12. Schmidt Hammer		\$35/day
13. Skidmore Wilhelm, per day		\$70/day
14. Torque Wrench (Large), per day		\$50/day
15. Torque Wrench (Small), per day		\$15/day
16. Ultrasonic Equipment & Consumables		\$60/day
17. Vehicle - Field Truck		\$55/day
<b>B. Diamond Coring (min charge = field time w/travel + 1 hr. mob./demob.)</b>		
1. Machine, truck & 1 operator (accessible flatwork only)	\$170/hr	\$135 00/hr.
2. Machine, truck, operator and helper	\$250/hr	185 00/hr
3. Coring Bit Charge		\$2.00/inch
4. Coring truck mileage (portal to portal)		\$0.65/mi
5. Traffic Control		Per Quote





BTC LABS – Vertical V  
2010 FEE SCHEDULE

III. LAB TESTS: AGGREGATE & SOIL

<b>A Laboratory Tests</b>	
1. Abrasion Resistance by Los Angeles Rattler	\$165.00
2. Absorption, sand or gravel – ASTM C127, C128	\$59.00
3. Acid solubility (includes Haz Mat Fee)	\$225.00
4. Atterburg Limits (LL and PL)	\$142.00
5. California bearing ratio (CBR) with expansion	\$365.00
6. California bearing ratio (CBR) at 95% (3 points)	\$585.00
7. Cement Treated Base (CTB), compact, cure & test	\$225.00
8. Cement Treated Base – compression (make, cure, test – 3 spec)	\$565.00
9. Cement Treated Base – stability	\$525.00
10. Clay lumps and friable particles, per primary size – ASTM C142	\$112.00
11. Cleanness Test – CFM 227	\$128.00
12. Crushed particles, per primary size	\$125.00
13. Direct Shear, remolded sample	\$285.00
14. Direct Shear, undisturbed (ring) sample	\$235.00
15. Durability Index (\$120 per size fraction)	\$215.00
16. Expansion Index	\$158.00
17. Flat & Elongated Particles (per bin size) – ASTM D4791	\$175.00
18. Hydrometer analysis (without specific gravity)	\$132.00
19. Lightweight pieces, per size fraction – ASTM C123	\$401.00
20. Lime content of treated materials (by titration):	
a. Lime content curve determination, for each material	\$395.00
b. Lime content, including untreated control sample	\$145.00
21. Maximum density-optimum moisture (4 in. mold – soil)	\$155.00
22. Maximum density-optimum moisture (6 in. mold – base & gravel)	\$190.00
23. Maximum Density Checkpoint	\$90.00
24. Moisture & Dry Density (ring samples)	\$20.00
25. Moisture determination (aggregate samples)	\$35.00
26. Mortar making properties of Sand ASTM C87	\$360.00
27. Mortar Properties – CTM 515	\$410.00
28. Organic Impurities – ASTM C40	\$75.00
29. Permeability, Constant Head	\$360.00
Falling Head	\$375.00
30. pH (soil)	\$35.00
31. Potential Reactivity Test ASTM C289 Chemical Method	\$495.00
32. Potential Reactivity ASTM C227 Mortar Bar Method (3 month)	\$785.00
Each additional month	\$118.00
33. Potential Reactivity Test ASTM C1260 Rapid Method	\$589.00
34. 'R' Value (HYEEM) (Treated material by quote)	\$270.00
35. Rip Rap, Slope Protection, Quarry Stone Acceptance	Per Quote
36. Sand equivalent	\$110.00
37. Sieve analysis (coarse and fine)	\$94.00
38. Sieve analysis (coarse or fine)	\$74.00
39. Soil Classification (Visual-Manual)	\$24.00
40. Soil resistivity (for estimated pipe life), includes pH	\$132.00
41. Soluble Chloride (soils)	\$78.00
42. Soluble Sulfate (soils)	\$78.00
43. Specific gravity - coarse	\$60.00
- fine (sand)	\$75.00
- clay	\$110.00
44. Sulfate Soundness, 5 cycle test per primary size – ASTM C88	\$325.00
45. Uncompacted Void Content of Fine Aggregate – AASHTO T304	\$145.00
46. Unconfined compression on prepared specimens	\$95.00
47. Unit weight – ASTM C29	\$72.00
48. Wash analysis (minus #200)	\$62.00

IV. LAB TESTS: CEMENT, CONCRETE, & MASONRY

<b>A Cement</b>	
1. Alkali content of Portland Cement	Per Quote
2. Grab sample (CCR Title 24) includes 1 year storage	\$48.00
3. Testing individual samples of cement, ASTM C150	Per Quote
<b>B Concrete</b>	
1. Cement content of hardened concrete	Per Quote
2. Concrete compression: 6x12 cylinders – ASTM C39:	\$25.00
3. Concrete compression: 4x8 cylinders – ASTM C39:	\$20.00
4. Concrete cylinder pickup: 6x12 (>25mi radius of Lab add hourly pickup rate)	\$9.50 ea.
5. Concrete cylinder pickup: 4x8 (>25mi radius of Lab add hourly pickup rate)	\$7.50 ea.
6. Concrete cylinder mold (w/ lid - spare)	\$5.00
7. Concrete core compression test – ASTM C42	\$35.00
8. Concrete Trial Batch (includes 6 compression tests)	\$765.00
9. Concrete Mix Design Review (excludes testing & revisions)	\$230.00

10. Concrete mix proportion revision	\$150.00
11. Density of concrete cylinder (unit weight)	\$64.00
12. Drying shrinkage – ASTM C157 (set of 3, 5 ages)	\$495.00
13. End preparation of cores, diamond sawing, per cut	\$15.00
14. Flexural beam pick-up (>25mi radius of Lab add hourly pickup rate)	\$38.00 ea.
15. Flexural strength, 6"x6" beam – ASTM C78 & C293	\$78.00
16. Shotcrete/Gunite core compression test (not including coring)	\$35.00
17. Coring of Shotcrete/Gunite panel in laboratory, each core	\$50.00
18. Shotcrete/Gunite panel pick-up (>25mi radius of Lab add hourly pickup rate)	\$38.00
19. Lab. trial batch, not including specimen tests – ASTM C192	Per Quote
20. Lightweight insulating concrete compress, 4 req. – ASTM C495	\$40.00
21. Lightweight insulating concrete – unit weight (oven dry)	\$65.00
22. Modulus of elasticity, 6"x12" cylinder – ASTM C469	\$215.00
23. Petrographic analysis of hardened concrete	Per Quote
24. Poisson's Ratio on 6"x12" cylinders – ASTM C469	\$209.00
25. Splitting tensile – ASTM C496	\$75.00
26. Statistical Analysis (\$105 minimum)	Per Quote
27. Non-Shrink (Dry-Pack) Grout – 2"x2"x2"; set of 3	\$96.00

**C Masonry**

1. Absorption test, brick, - 5 required – ASTM C67	\$75.00
2. Absorption test, masonry unit, 3 required – ASTM C140 (Net area requires absorption and unit weight)	\$45.00
3. Compressive strength, brick, 5 required – ASTM C67	\$45.00
4. Tensile test on masonry block	\$190.00
5. Compression test on masonry core	\$35.00
6. Compression of masonry prisms 8"x8" – ASTM E447 (other sizes by quote – may require cutting charge)	\$145.00
7. Compression test, masonry unit, 3 required – ASTM C140 (Requires absorption/unit weight tests for Net Area)	\$65.00
8. Masonry Prism Pickup	\$29.00
9. Compression test, grout specimens	\$30.00
10. Compression test, mortar specimens	\$25.00
11. Diamond sawing of masonry specimens, if required (minimum)	\$24.00
12. Efflorescence, first unit @ \$125.00, each additional @	\$54.00
13. Linear shrinkage, masonry unit, 3 required – ASTM C426	\$98.00
14. Modulus of rupture, brick, 5 required – ASTM C67	\$42.00
15. Moisture content, masonry unit (as received), 3 req'd – ASTM C140	\$42.00
16. Shear test on masonry core	\$85.00
17. Unit weight, masonry unit, 3 required – ASTM C140	\$45.00

V. LAB TESTS: REINFORCING & STRUCTURAL STEEL

**A General Testing**

1. Processing mill certification (each size & heat)	\$18.00 ea.
2. Rockwell or Brinell Hardness, average of three readings	\$24.00 ea.
3. Zinc coating, each item (includes Haz Mat Fee)	\$187.00

**B Reinforcing Steel**

1. Deformation, reinforcing steel	\$40.00
2. Pre-stress, strand or wire, tensile & elongation	Per Quote
3. Proof test on post-tension assembly	Per Quote
4. Bend Test (rebar)	\$45.00
5. Tensile test (rebar), up to & including #8	\$45.00
6. Tensile test (rebar) #9, #10, #11	\$60.00
7. Tensile test (rebar) #14, #18	\$160.00
8. Rebar Mechanical Coupler (Tension) Test (up to #11 bar)	\$125.00

**C Structural Steel**

1. Cutting & machining charges	\$72.00/hr
2. Bend test, structural, all sizes	\$40.00
3. Tensile test, structural, less than 3/4" cross sectional area (cutting & machining extra)*	\$45.00
4. Tensile test, structural, over 3/4" cross sectional area (<cutting & machining extra)*	\$55.00
5. Flattening test of pipe	\$42.00
*Tensile and yield by percent offset, add \$85.00	

**D High Strength Bolts**

1. Bolts – proof load	\$39.00
Bolts – ultimate load	\$45.00
Bolts – hardness	\$25.00
2. Nuts – proof load	\$39.00
Nuts – hardness	\$25.00
3. Washers – hardness	\$25.00



**F. Welding Procedure and Welder Qualification Tests**

	<i>Coupon thickness (mild steel only)</i>	<i>to 3/8"</i>	<i>over 3/8"</i>
1. Fracture bend (fillet)			\$42.00
2. Macroetch	\$49.00 ea		
3. Free bend			\$60.00
4. Nick break	\$41.00 ea.		\$33.00
5. Side, face or root bend	\$22.00 ea.		\$27.00
6. Tensile	\$31.00 ea.		\$43.00
7. Welder Qualification Records			115.00

*Includes evaluation of test specimens and preparation of Stamped Welder/Procedure Qualification Records per applicable code.*

*\*Welder qualification examinations are given in our laboratory or at fabricator's shop with 4-hour minimum witnessing charge.*

*\*\*Fees listed are for tests only. Sample preparation, coupon machining, etc., will be charged at applicable hourly lab rates and cost plus 15% for Outside Direct Costs.*

**VI. MISCELLANEOUS CONSTRUCTION MATERIALS TESTS**

1. Calibration Certificates	Per Quote
2. Density of Sprayed Fireproofing	\$70.00
3. Fireproofing Bond Pull Test	\$38.00
4. Roof Tile Strength	\$54.00
5. Roof Tile Absorption	\$38.00
6. Roof Cut Tests (total weight only)	\$57.00
7. Ply count, separation, bituminous content, etc.	Per Quote
8. Jobsite Trailer or Mobile Laboratory	Per Quote
9. Universal Testing Machine (Hourly)	\$150.00
10. Ground Rod Test (plus travel)	\$150.00

**VII. ASPHALT & ASPHALTIC CONCRETE**

**A. Asphalt Pavement Engineering**

1. CALTRANS Third Party Resolution Documentation Fee	\$350.00
2. Pavement Evaluations	\$425.00 (minimum)

**B. Asphaltic Cements And Liquid Asphalts**

1. Absolute viscosity – ASTM D-2171, AASHTO T-202	
At 140°F	\$155.00
Other temperature	\$185.00
2. Brookfield Viscosity – ASTM D2669	\$165.00
3. Cone penetration – ASTM D-217	\$125.00
4. Ductility at 77°F – ASTM D-113, AASHTO T-51	\$185.00
Other temperature	\$275.00
5. Flash point Cleveland Open Cup – ASTM D-92, AASHTO T-48	\$125.00
6. Kinematic viscosity – ASTM D-2170, AASHTO T-201	
At 140°F or 275°F	\$125.00
Other temperature	\$155.00
7. Penetration – ASTM D-5, AASHTO T-49 (at 77°F)	\$115.00
Other temperature	\$135.00
8. Resilience – ASTM D5329	\$155.00
9. Softening point – ASTM D-36	\$125.00
10. Solubility in trichloroethylene – ASTM D2042, AASHTO T-44	\$185.00
11. Specific gravity – ASTM D-70, AASHTO T-228	\$125.00

**C. Emulsions And Slurry Seals**

1. Cement mixing – ASTM D-244, AASHTO T-59	\$105.00
2. Consistency test – ASTM D-3910	\$95.00
3. Demulsibility – ASTM D-244, AASHTO T-59	\$115.00
4. Miscibility – ASTM D-244	\$115.00
5. Particle charge – ASTM D-244, AASHTO T-59	\$75.00
6. pH determination	\$75.00
7. Oven cook off (% residue)	\$100.00
8. Set time – ASTM D-3910	\$85.00
9. Settlement, 5 or 7 day – ASTM D-244, AASHTO T-59	\$155.00
10. Slurry seal mix proportion	\$1,750.00
11. Solids content by evaporation and extraction (slurry)	\$205.00
12. Storage stability, 1 day – ASTM D-244	\$150.00
13. Torsional Recovery	\$125.00
14. Wet Track Abrasion – ASTM D-3910 (prep. not included)	\$270.00

**D. Asphaltic Concrete, Aggregate And Mixes**

1. Bulk Specific Gravity Compacted AC – CTM 308, AASHTO T166	\$225.00
2. Centrifuge kerosene equivalent, CKE – CTM 303	\$225.00
3. Complete mix proportion for by Marshall Method with R.A.P.	\$2,900.00
4. Complete mix proportion by (HVEEM) Method with R.A.P.	\$2,700.00
5. Coring of asphaltic concrete – See Section E Diamond Coring	\$3,500.00
6. Ignition Oven Correction Factor – CTM 281	\$650.00
7. Extraction, % bitumen and sieve analysis – ASTM 2172	
Solvent Extraction Method – ASTM 2172	\$325.00
Ignition Oven Method – CTM 281	\$225.00
8. Extraction, % bitumen only	
Solvent Extraction Method – ASTM 2172	\$265.00
Ignition Oven Method – CTM 281	\$145.00
9. Film stripping – CTM 302	\$165.00
10. Ignition Oven Correction Factor	\$645.00
11. Index of retained strength, in conjunction with mix proportion & index of retained strength (24 hr immersion) ASTM D-1074	\$835.00
12. Marshall test, per specimen (stability and flow) – ASTM D-1559	\$125.00
13. Marshall Specific Gravity	\$225.00
14. Theoretical Maximum Specific Gravity (RICE) – ASTM D-2041	\$200.00
15. Moisture content – ASTM D-1461	\$115.00
16. Moisture vapor susceptibility, in conjunction with stabilometer – CTM 307	\$345.00
17. Recovery of extracted asphalt (does not include tests on asphalt) – ASTM D-5404	\$250.00
18. Recovery of rubber from ARHM extraction	\$115.00
19. Specific gravity of core – ASTM D-2726	\$60.00
20. Specific gravity (max density) of compacted sample CA375	
1 pt. LTMD	\$72.00
3 pt. LTMD	\$210.00
5 pt. LTMD	\$325.00
21. HVEEM Stabilometer test on premixed sample – CTM 366	\$185.00
Stabilometer test and mixing of sample	\$400.00
22. Surface abrasion CTM 360	\$445.00
23. Swell test in conjunction with stabilometer – CTM 305	\$115.00
24. Tensile strength ratio, in conjunction with mix proportion – AASHTO T-283, CTM 371	\$1,000.00
25. Viscosity curve for ARHM (% rubber) binder blend - 6 hr.	\$870.00
- 8 hr.	\$1,200.00

NOTE: Where prices are listed for mix proportions, the necessary specific gravity tests and sieve analyses are included; however, aggregate and asphalt qualification tests are not

## EXHIBIT B

### **Insurance Requirements**

Prior to the beginning of and throughout the duration of the Work, Consultant will maintain insurance in conformance with the requirements set forth below. Consultant will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, Consultant agrees to amend, supplement or endorse the existing coverage to do so. Consultant acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to City in excess of the limits and coverage required in this agreement and which is applicable to a given loss, will be available to City.

Consultant shall provide the following types and amounts of insurance:

Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross liability exclusion for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 per accident. If Consultant owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Consultant or Consultant employees will use personal autos in any way on this project, Consultant shall provide evidence of personal auto liability coverage for each such person.

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against acts, errors or omissions of the consultant and "Covered Professional Services" as designated in the policy must specifically include work performed under this agreement. The policy limit shall be no less than \$1,000,000 per claim and in the aggregate. The policy must "pay on behalf of" the insured and must include a provision establishing the insurer's duty to defend. The policy retroactive date shall be on or before the effective date of this Agreement.

Worker's Compensation on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident or disease.

Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Any

such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum of \$25,000 self-insured retention for liability not covered by primary but covered by umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. Policy shall contain a provision obligating insurer at the time insured's liability is determined, not requiring actual payment by the insured first. There shall be no cross liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to employees of Consultant, subconsultants or others involved in the Work. The scope of coverage provided is subject to approval by the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the State of California and with an A.M. Bests rating of A- or better and a minimum financial size VII.

General conditions pertaining to provision of insurance coverage by Consultant. Consultant and City agree to the following with respect to insurance provided by Consultant:

1. Consultant agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insureds City, its officials, employees, servants, agents, and independent consultants ("City indemnities"), using standard ISO endorsement No. CG 2010 with an edition prior to 1992. Consultant also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit Consultant, or Consultant's employees, or agents, from waiving the right of subrogation prior to a loss. Consultant agrees to waive subrogation rights against City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractor's to do likewise.
3. All insurance coverage and limits provided by Consultant and available or applicable to this agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or any contractor or subcontractor.

6. All coverage types and limits required are subject to approval, modification, and additional requirements by the City, as the need arises. Consultant shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect City's protection without City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverages required and an additional insured endorsement to Consultant's general liability policy, shall be delivered to City at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement coverage is provided, City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by City shall be charged to and promptly paid by Consultant or deducted from sums due Consultant, at City option.
8. Certificates are to reflect that the insurer will provide 30 days notice to City of any cancellation of coverage. Consultant agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.
9. It is acknowledged by the parties of this agreement that all insurance coverage required to be provided by Consultant or any subconsultant, is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self insurance available to City.
10. Consultant agrees to ensure that subcontractors, and any other party involved with the project, who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with subcontractors and others engaged in the project will be submitted to City for review.
11. Consultant agrees not to self-insure or to use any self-insured retention or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, or other entity or person in any way involved in the performance of work on the project contemplated by this agreement to self-insure its obligations to City. If Consultant's existing coverage includes a deductible or self-insured retention, the deductible or self-insured

retention must be declared to the City. At that time the City shall review options with the Consultant, which may include reduction or elimination of the deductible of self-insured retention, substitution of other coverage, or other solutions.

12. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City will negotiate additional compensation proportional to the increased benefit to City.
13. For purposes of applying insurance coverage, only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.
14. Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any insurance requirement in no way imposes any additional obligations on City nor does it waive any rights hereunder in this or any other regard.
15. Consultant will renew the required coverage annually as long as City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until City executes a written statement to that effect.
16. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted prior to expiration. A coverage binder or letter from Consultant's insurance agent to this effect is acceptable. A certificate of insurance and/or additional insured endorsement is required in these specifications applicable to the renewing or new coverage must be provided to City within five days of the expiration of the coverages.
17. The provisions of any workers' compensation or similar act will not limit the obligations of Consultant under this agreement. Consultant expressly agrees not to use any statutory immunity defenses under such laws with respect to City, its employees, officials, and agents.
18. Requirements of specific coverage features or limits contained in this section are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a give coverage feature is for purposes of clarification only as it pertains to a

given issue, and is not intended by any party of insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this agreement and are intended by the parties here to be interpreted as such.
20. The requirements in this Section supersede all other sections and provisions of this Agreement to the extent that any other section or provision conflicts with or impairs the provisions of this Section.
21. Consultant agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Consultant for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to the City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
22. Consultant agrees to provide immediate notice to City of any claim or loss against Consultant arising out of the work performed under this agreement. City assumes no obligation or liability by such notice, but has the right (but not the duty) to monitor the handling of any such claim or claims if they are likely to involve City.